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FISCAL IMPACT STATEMENT

LS 6660

BILL NUMBER: SB 461

NOTE PREPARED: Jan 11, 2009

BILL AMENDED:

SUBJECT: Environmental Issues.

FIRST AUTHOR: Sen. Gard

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: *Repeal of Electronic Digital Signature Act.* The bill repeals the Electronic Digital Signature Act.

Repeal of Advisory Board. It repeals the Northwest Indiana Advisory Board.

Use of Toxic or Flammable Refrigerant The bill allows the use in motor vehicle air conditioning equipment of a toxic or flammable refrigerant if the refrigerant has been approved by the U.S. Environmental Protection Agency.

Rulemaking. It allows, in streamlined rulemaking processes, the adoption of a proposed rule with amendments at the public hearing, and requires that the amendments meet logical outgrowth requirements.

State Fire Marshal and Underground Storage Tanks. The bill also directs the State Fire Marshal to establish a training program for owners, managers, and operators of underground storage tank (UST) facilities, and permits use of the Underground Petroleum Storage Tank Excess Liability Trust Fund (ELTF) for expenses of training.

ELTF. It modifies the deductible for claims against the ELTF by certain UST owners, and increases the annual claim limit from \$3 M to \$7 M, subject to the commissioner's discretion and the fund balance. This bill eliminates the differential claim limit for facilities with less than 100 USTs.

Repeal of Underground Petroleum Storage Tank Trust Fund (UPSTTF). It repeals the UPSTTF and merges the provisions of that fund with the ELTF.

UST Cleanup Responsibilities. The bill establishes relative cleanup responsibilities between a UST owner and the owner of property on which the UST is located.

State Cost Recovery. The bill standardizes the state's ability to recover costs, including project oversight costs, among all environmental remediation and cleanup programs managed by the Indiana Department of Environment Management (IDEM).

Deadlines for IDEM. It establishes deadlines for IDEM action on various permit applications with respect to certain solid waste processing facilities.

Drinking Water Apprenticeship Program. It permits IDEM to establish a Drinking Water Apprenticeship Program.

Drinking or Wastewater Certification. The bill allows suspension or revocation of a drinking water or wastewater operator certification if another state has decertified or taken similar action against the operator.

Disclosure of Contamination. The bill requires disclosure upon the sale of residential property of known controlled substance contamination if the property has not been certified as decontaminated. This bill also provides that an owner or agent is required to disclose knowledge of a psychologically affected property in a real estate transaction if the property is listed on the methamphetamine registry website.

Landfill and Wastewater Terms. This bill also replaces the undefined term "sanitary landfill" with "solid waste landfill". The bill for purposes of wastewater management statutes, replaces the term "wastewater" with "septage".

Effective Date: Upon passage; July 1, 2009.

Explanation of State Expenditures: *Repeal of Electronic Digital Signature Act.* An electronic digital signature transforms a message using an asymmetric crypto system. Repealing the act would not prohibit the use of an electronic digital signature. Currently, the Bureau of Motor Vehicles and the Attorney General use digital signatures. The repealed provision requires the State Board of Accounts (SBA) to administer a method used by the state to conduct authenticated electronic transactions using digital signatures. The SBA has adopted rules, as required, to implement the use of electronic digital signatures.

Repeal of Advisory Board. The repeal of the Northwest Indiana Advisory Board should have no fiscal impact. The board has not met since at least 2003.

Use of Toxic or Flammable Refrigerant. The bill allows the use in motor vehicle air conditioning equipment of a toxic or flammable refrigerant if the refrigerant has been approved by the U.S. Environmental Protection Agency. This provision will not have a fiscal impact.

Rulemaking. The bill allows the adoption of a proposed rule with amendments at the public hearing, and requires that the amendments meet logical outgrowth requirements. Streamlining the process could reduce IDEM's administrative expenses.

State Fire Marshal and Underground Storage Tanks. The State Fire Marshal within the Department of Homeland Security (DHS) must establish a training program for owners, managers, and operators of

underground storage tank facilities. The bill permits use of the Underground Petroleum Storage Tank Excess Liability Trust Fund to pay for training expenses. DHS already operates training and certification programs. Adding a program pertaining to the operation of UST facilities will cost an estimated \$200,000 the first year. Expenses in subsequent years could be less because the program would not have startup costs for equipment, networking, etc. As of Jan 6, 2009, ELTF had a balance of \$0. (See *ELTF* background below.)

ELTF. The bill modifies the deductible for claims against the ELTF by certain UST owners and increases the annual claim limit from \$3 M to \$7 M, subject to the commissioner's discretion and the fund balance. This bill eliminates the differential claim limit for facilities with less than 100 USTs.

Currently, monthly claim payments exceed monthly revenue by about \$1.5 M. An owner or operator of not more than 100 UPSTs may not receive more than \$2 M from the ELFT during a year. An owner or operator of more than 100 USTs may not receive more than \$3 M from the fund during a year.

Currently, IDEM has one claimant who has over \$15 M in claims. Under provisions of the bill, the claimant could receive \$7 M per year as opposed to \$3 M.

Repeal of Underground Petroleum Storage Tank Trust Fund (Petroleum Fund). The bill repeals the Petroleum Fund and merges the provisions of that fund with ELTF. Merging the two funds would make the \$4 M balance in the Petroleum Fund available to pay claims on the current ELTF.

UST Cleanup Responsibilities. The bill establishes relative cleanup responsibilities between a UST owner and the owner of property on which the UST is located. This provision is a clarification and should have no fiscal impact.

State Cost Recovery. The bill standardizes the state's ability to recover costs, including project oversight costs, among all environmental remediation and cleanup programs managed by IDEM. IDEM could recover an estimated \$500,000 per year given the provisions of the bill.

Deadlines for IDEM. The bill establishes deadlines for IDEM action on various permit applications with respect to certain solid waste processing facilities. This provision should have no fiscal impact.

Drinking Water Apprenticeship Program. The bill permits IDEM to establish a Drinking Water Apprenticeship Program. This provision should have no impact to the state other than administrative expenses associated with the adoption of rules.

Drinking or Wastewater Certification. The bill allows suspension or revocation of a drinking water or wastewater operator certification if another state has decertified or taken similar action against the operator. This provision could result in a reduction in expenses associated with IDEM's having to document a case for suspension or revocation of a certification.

Disclosure of Contamination. The bill requires disclosure upon the sale of residential property of known controlled substance contamination if the property has not been certified as decontaminated. This bill also provides that an owner or agent is required to disclose knowledge of a psychologically affected property in a real estate transaction if the property is listed on the methamphetamine registry website. These provisions will have no fiscal impact.

Landfill and Wastewater Terms. This bill replaces the undefined term "sanitary landfill" with "solid waste

landfill". The bill for purposes of wastewater management statutes, replaces the term "wastewater" with "septage". These provisions will have no fiscal impact.

Background Information:

The Northwest Indiana Advisory Board consists of a member of the Senate and the House of Representatives if all or part of the member's district is located in Lake, LaPorte, and/or Porter Counties; 8 lay members; and one local elected official from each county. Members who were not state employees were not entitled to per diem and travel expenses. State employees were not entitled to reimbursement for traveling expenses. The board was formed prior to the establishment of IDEM's northwest office. The board was required to monitor permit applications; disseminate information and material to the public; make recommendations to IDEM and IDEM boards; and assist any IDEM regional offices.

The Underground Petroleum Storage Tank Excess Liability Trust Fund provides funding for reimbursement of money spent by UST owners and operators for cleanup of petroleum releases. It also provides federally mandated financial assurance for owners and operators and a source of money for the indemnification of third parties. ELTF pays IDEM expenses incurred in administering claims against the fund and incurred in inspecting USTs. IDEM was appropriated around \$2 M for FY 2008 and for FY 2009.

Sources of money for the trust fund are annual tank fees; penalties; appropriations; gifts; inspection fees; bond revenue; and any other money authorized to be deposited in or appropriated to the trust. The oil and inspection fee generates about \$30 M per year. The UST fee generates about \$600,000.

The Underground Petroleum Storage Tank Trust Fund first provides funding for costs associated with corrective action for orphans tanks. Sources of money for the fund are federal E.P.A. grants; costs recovered by the state in connection with corrective actions; costs recovered with enforcement relating to petroleum releases; appropriations; gifts; 50% of the UST annual fee.

Explanation of State Revenues:

Explanation of Local Expenditures: *Drinking Water Apprenticeship Program.* The bill permits IDEM to establish a Drinking Water Apprenticeship Program for water treatment plant operators and water distribution system operators. This provision could have an impact on local expenditures. The specific impact will depend on participation by local units.

Explanation of Local Revenues:

State Agencies Affected: All.

Local Agencies Affected: Units responsible for water treatment plants and water distribution systems; Lake, LaPorte, and Porter Counties.

Information Sources: Sandra Flum, IDEM; Paul Lottes, SBA; <http://www.in.gov/idem/5085.htm>.

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